IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO: 9281 of 2005

Between:

V. Rajamma, W/o. Anjaiah,
R/o. Gaddiannaram, Hyderabad.

..... PETITIONER

A N D

1) The Deputy Commissioner, Prohibition and Excise, Hyderabad.
2) The Station House Officer, Prohibition and Excise, Charminar,

Hyderabad.

..... RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order or direction or writ under Article 226 of the Constitution of India, more particularly one in the nature of Writ of Mandamus declaring the action of the first respondent in directing to give interim custody of the lorry bearing No. APF-2005 to the petitioner on condition of her furnishing FDR for a sum of Rs.50,000-00 with two sureties for the like sum as illegal, arbitrary, bad and against the principles of natural justice and consequently direct the respondents to release lorry bearing No. APF-2005 in favour of the petitioner on her furnishing immovable property security or furnishing two sureties for the amount of Rs.50,000-000.

Counsel for the Petitioner : MR.C.DAMODHAR REDDY

Counsel for the Respondents : GP FOR PROHIBITION & EXCISE

*The Court at the stage of admission made the following***:** (order follows 2nd page)

O R D E R :

Aggrieved by the order dated 10-1-2005 passed by the first respondent in Cr.No.C2/4299/04, this writ petition is filed to declare the action of the first respondent in directing to give interim custody of the lorry bearing No. APF-2005 to the petitioner on condition of her furnishing FDR for a sum of Rs.50,000-00 with two sureties for the like sum as illegal, arbitrary, bad and against the principles of natural justice and consequently direct the respondents to release lorry bearing No. APF-2005 in favour of the petitioner on her furnishing immovable property security or furnishing two sureties for the amount of Rs.50,000-000.

It is represented on behalf of Mr.C.Damodar Reddy, the learned counsel for the petitioner that the petitioner is the registered owner of lorry bearing Regdn.No.APF-2005 of 1940 model and the same was used for transportation of toddy with a valid license. On 28-10-2004 at about 03:00 p.m. the second respondent along with his staff seized the said lorry along with thirteen barrels of toddy. On the basis of panchanama and report, a case in Cr.No.332/2004-2005 was registered under section 34 (a) of AP Excise Act, 1968. Aggrieved by the order of seizure, she filed an application before the first respondent for interim custody of the vehicle and after considering her request, the first respondent passed an order in Cr.No.C2/4299/04 dated 10-1-2005 directing her to furnish FDR for the value of the vehicle as assessed by the Motor Vehicle Inspector, along with two sureties. The value of the said lorry was assessed at Rs.50,000-00 but the value of the said lorry would be not more than Rs.30,000-00.

It is further submitted that the petitioner is an old lady, suffering from ill-health and unable to maintain herself and also the medical expenses. In view of the above, she could not mobilize Rs.50,000/- but she expressed her willingness before the first respondent to furnish immovable property as security. The first respondent had rejected her application for furnishing immovable security.

Now the learned counsel for the petitioner requested to modify the condition of furnishing FDR for Rs.50,000-00 and direct the concerned authorities to accept immovable property as security.

The learned Govt.Pleader for Prohibition and Excise submitted that under the supervision of Prohibition and Excise Supintendent, the Station House Officer, Charminar and Sub-Inspectors have detected a case of illicit transportation of toddy and seized thirteen barrels of toddy containing 200 litres of toddy in each barrel, accumulating to 2600 litres of toddy and lorry bearing No.APF-2005 at Chandrayangutta X-road, Hyderabad. Thereafter, the Excise officials have tested the toddy and drawn samples from the seized barrels of toddy. Thereupon, the accused involved in the offence were arrested and produced before the concerned court.

After hearing both sides, considering the facts and circumstances of the case, I deem it appropriate to direct the petitioner to deposit Rs.25,000/- (Rs.twentyfive thousand only) at the end of April, 2005 i.e., on or before 30-4-2005 and Rs.25,000-00 (Rs.Twentyfive thousand only) by the end of May 2005 i.e., on or before 31-5-2005. On such deposit, the first respondent is directed to release the lorry bearing No.APF-2005 and its R.C.book to the petitioner forthwith. However, if any other

conditions imposed by the first respondent shall remain undisturbed.

With the above direction, the writ petition is disposed of at the admission stage. No costs.

APRIL 25, 2005. ----------

I S L. ELIPE DHARMA RAO, J.

To

1 The Deputy Commissioner, Prohibition and Excise, Hyderabad.
2 The Station House Officer, Prohibition and Excise, Charminar,

Hyderabad.

3 1 CC to Govt.Pleader for Prohibition and Excise, High Court

Buildings, High Court of AP Hyderabad (OUT).

4 Two CD Copies.

5 1 CC to Mr.C.Damodar Reddy, Counsel for the Petitioner,

Advocates' Association, High Court of AP Hyderabad.